

**STATE OF MARYLAND  
JUDICIARY**

**Policy on the Involuntary Termination of Employment  
and Rejection on Probation for Regular Employees  
and Employees on Initial Probation**

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**I. PURPOSE**

To establish a uniform policy for the involuntary termination of employment and the rejection on probation for regular employees and employees on initial probation in the State of Maryland Judiciary.

**II. DEFINITIONS**

**A. Administrative Official (for purposes of this policy)**

1. The Chief Judge of a Court of Appeals or the District Court;
2. The State Court Administrator;
3. The Chief Clerk of the District Court;
4. The Clerk of Court of the Court for which the employee works;
5. The Administrative Judge or Administrative Clerk of the District Court for the district in which the employee works; or
6. The director of the respective department or office within the Courts of Appeal, the Administrative Office of the Courts, the District Court Headquarters, or the Court-Related Agency in which the employee works.

**B. Employee Serving an Initial Probation** – A person serving an original probationary period after appointment (including an extension of the original probationary period).

**C. Executive Director** – The Executive Director of the Human Resources Department for the Maryland Judiciary.

**D. Hearing Officer** – The person designated to conduct a hearing and to make a recommendation as to whether a termination should stand, be rescinded or modified based on the information, evidence, and testimony

presented him or her during the hearing.

**E. Regular Employee (for purposes of this policy) – Any person employed by the Maryland Judiciary, except:**

1. A Judge, Master, or Law Clerk;
2. Any employee in pay grades T18 and T19, or in a flat scale position, or in the Judiciary's Senior Management Pay Plan;
3. A Clerk of Court or Chief Deputy Clerk of Court;
4. A Deputy Administrative Clerk of the District Court;
5. A District Court Commissioner;
6. An individual employed as a special appointment, contractual employee or on a temporary basis; or
7. An employee serving an initial probation period.

**III. SCOPE**

This policy applies to all regular employees and employees serving an initial employment probation period in the Maryland Judiciary.

**IV. DESIGNEES**

With the exception of the employee, any person allowed or required to take an action pursuant to this policy may designate any individual to serve or act on his/her behalf in conjunction with the provisions of this policy.

**V. CAUSES FOR TERMINATION OF EMPLOYMENT**

**A. The following actions are causes for automatic termination of employment:**

1. Intentional conduct, without justification, that:
  - (a) seriously injures another person;
  - (b) causes substantial damage to property; or
  - (c) seriously threatens the safety of the workplace;
2. Theft of State property of a value greater than \$300.00;
3. Sale or unlawful use or possession of drugs on the job, or illegal activity involving controlled dangerous substances;
4. Involvement by the employee in felonious criminal activity;
5. Accepting for personal use any fee, gift, or other valuable item in

***Policy on the Involuntary Termination of Employment . . . .***

- connection with or during the course of State employment with the intent of the employee, in return, to provide any person a favor or better treatment than that afforded to other persons;
6. Violations of the Fair Election Practices Act or using, threatening, or attempting to use political influence or the influence of any State employee or officer in securing promotion, transfer, leave of absence, or increased pay;
  7. Wantonly careless conduct or unwarranted force in the treatment or care of the public, fellow employees, or other persons; and
  8. Willfully falsifying, willfully withholding information, or acting deceptively during the employment application process.
- B. The following also shall be sufficient cause for termination of employment though termination may be for causes other than those listed:
1. The employee is incompetent or ineffective in the performance of assigned duties;
  2. The employee cannot perform the essential functions of his/her position. If the employee is an individual with a disability, there must be no reasonable accommodation that would enable the person to perform the essential functions of the position;
  3. The employee has been insubordinate or disrespectful toward a supervisor or Judiciary official, a fellow employee, or the public;
  4. The employee has been wantonly offensive in conduct toward fellow employees or the public;
  5. The employee, through negligence or willful conduct, has caused damage to public property or waste of public resources;
  6. The employee willfully has made a false official statement or report;
  7. The employee was involved in non-felonious criminal activity that reasonably calls into question the employee's trustworthiness and honesty, or his or her ability to perform his or her duties in a safe, fair or impartial manner, or that if known by the public, would bring the Judiciary into disrepute;
  8. The employee improperly divulged confidential information;
  9. The employee misused the influence of his or her position as a Judiciary employee; and
  10. The employee failed to follow a Judiciary or other applicable State policy.
- C. The standard of proof in determining whether there is sufficient ground(s) for termination of employment is preponderance of evidence, proof that

something is more likely so than not. Management has the burden of proof in decisions to terminate the employment of an employee.

**VI. TERMINATION OF REGULAR EMPLOYEES NOT ON PROBATION OR SERVING A PROBATION AS A RESULT OF PROMOTION, TRANSFER OR REASSIGNMENT**

**A. Request:**

1. Except as provided in paragraph 2, herein, where there is automatic cause for termination, an Administrative Official, after an investigation and in consultation with the Employee Relations Unit of the Human Resources Department, may request the termination of the employment of an employee under the Administrative Official's authority. The Employee Relations Unit shall prepare a Termination Statement which shall include the reason(s) for termination and it shall be signed by the Executive Director of Human Resources and the Administrative Official.
2. The Administrative Official has the duty to apprise the Employee Relations Unit promptly whenever the employee's action(s) is cause for automatic termination of employment, or whenever an employee has engaged in misconduct that may constitute cause for termination. After an investigation, the Employee Relations Unit shall prepare a Termination Statement which shall include the reason(s) for the termination and it shall be signed by the Executive Director and the Administrative Official.
3. Once the Termination Statement is prepared, termination may proceed and the statement may be given to the employee only with the approval of the following Administrative Officials, in consultation with the Employee Relations Unit:
  - (a) The appropriate Chief Judge, Clerk of Court, or director within a Court of Appeals or Court-Related Agency;
  - (b) The Chief Judge of the District Court for an employee of the District Court;
  - (c) The State Court Administrator for an employee of the Administrative Office of the Courts; or
  - (d) The Clerk of Court of the Circuit Court for which the employee works;

**B. Notice:**

1. If the termination of employment is approved per Section VI, the Executive Director or designee and the employee's Administrative Official shall meet with the employee to inform the employee of the reason(s) for termination, to provide notice of the evidence against the employee, to provide the employee an opportunity to speak on his or her behalf, and to discuss the termination process and possible alternatives, including resignation. If after the meeting the Administrative Official and the Executive Director or designee determine that termination should proceed, then the employee may be served with the Termination Statement at that time. The Statement will advise the employee of the deadline for filing a Request for Review of Termination/Rejection on Probation, five working days from the date of the meeting. The employee also will be given a copy of this policy, and will be asked to sign a receipt for the Termination Statement and this policy. The termination shall be effective immediately.
2. No termination shall occur without the service of a Termination Statement. If the employee either is unable to attend the meeting or chooses not to attend the meeting, the employee may be served by mailing the Termination Statement and this policy by certified mail and regular mail to the employee's most recent address on record with the Human Resources Department. In that case, the deadline for filing a request for review will be seven working days from the date the Termination Statement is mailed to the employee.
3. If the employee is given the option of resigning and submits a letter of resignation prior to close of business on the deadline for filing a request for review, then resignation will be accepted in lieu of termination. The resignation letter shall include a statement that the employee will not seek or accept employment with the Judiciary in the future. A resignation precludes a Request for Review of the termination action.
4. Unless decided otherwise by the State Court Administrator for an employee of the Administrative Office of the Courts, a Circuit Court, a department or office within the Courts of Appeal, or a Court-Related Agency, or the Chief Judge of the District Court for an employee of the District Court, the termination date is not affected by the filing of a Request for Review of Termination/Rejection on Probation.

**VII. REJECTION ON PROBATION FOR REGULAR EMPLOYEES ON PROBATION AS A RESULT OF PROMOTION, TRANSFER OR REASSIGNMENT**

- A. In lieu of termination of employment (except where automatic termination of employment is required), an Administrative Official, in consultation with the Employee Relations Unit, may reject on probation an employee who is serving a probation period (including an extension) as a result of a promotion, transfer or reassignment. The Probation Report Form shall serve as the rejection notice. The Probation Report Form shall state the reason(s) for the rejection and advise the employee of the deadline for filing a Request for Review of Termination/Rejection on Probation, five working days from the date of the meeting. An employee rejected on probation will be provided at least two (2) weeks notice of the effective date of the rejection. Two weeks notice is not required, however, if, in the judgment of the Administrative Official, the employee's continued presence on the job would be contrary to the best interests of the Judiciary.
- B. The Administrative Official shall meet with the employee to discuss the reason(s) for rejection. No rejection shall occur without the service of the Probation Report Form. If the employee either is unable to attend the meeting, or chooses not to attend the meeting, the employee may be served notice of rejection by mailing the Probation Report Form and this policy by certified mail and regular mail to the employee's most recent address on record with the Human Resources Department. In that case, the deadline for filing a Request for Review will be five working days from the date the Probation Report Form is mailed to the employee.
- C. A regular employee rejected on probation while serving a probation as a result of a promotion, transfer, or reassignment, shall be returned to the employee's previous position if vacant. If the previous position is not vacant, the Administrative Official, at his or her discretion, shall place the employee in any vacancy in the previous classification or comparable classification for which the employee meets the minimum qualifications. If there are no vacancies in the employee's previous position, in any classification previously held by the employee, or in any comparable position, the employee will be given the option to resign, or the employee's employment will be terminated.

**VIII. TERMINATION OF EMPLOYMENT FOR EMPLOYEES ON INITIAL PROBATION (Rejection on Probation)**

- A. An Administrative Official, in consultation with the Employee Relations

Unit, may reject on probation, for reasons specified in Section V of this Policy or for other reasons, an employee on initial probation (which includes an extension of an initial probation) who is under the Administrative Official's authority. A probationary employee whose conduct would be a cause for automatic termination of employment, if the employee were a regular employee, shall be rejected on probation.

- B. A rejection on probation while serving an initial probation is a termination of employment.
- C. The Probation Report Form shall serve as the Termination Statement. The Probation Report Form shall state the reason(s) for termination and advise the employee of the deadline for filing a Request for Review of Termination/Rejection on Probation, five working days from the date of the meeting. The employee rejected on probation will be provided at least two (2) weeks notice of the effective date of the rejection. Two weeks notice is not required, however, if in the judgment of the Administrative Official, the employee's continued presence on the job would be contrary to the best interests of the Judiciary.
- D. The Administrative Official shall meet with the employee to discuss the reason(s) for rejection and possible alternatives, including resignation. No rejection shall occur without the service of the Probation Report Form. If the employee either is unable to attend the meeting, or chooses not to attend the meeting, the employee may be served notice of rejection by mailing the Probation Report Form and this policy by certified mail and regular mail to the employee's most recent address on record with the Human Resources Department. In that case, the deadline for filing a request for review will be five working days from the date the Probation Report Form is mailed to the employee.

**IX. REVIEW OF TERMINATION OF EMPLOYMENT, OR REJECTION ON PROBATION FOR REGULAR EMPLOYEES AND THOSE SERVING AN INITIAL PROBATIONARY PERIOD**

- A. If the employee wishes to have the termination of employment or rejection on probation reviewed, the employee must submit a Request for Review of Termination/Rejection on Probation form to the office of the Executive Director. The request must be received in that office no later than the close of business on the deadline for filing a Request for Review as specified in the termination or rejection statement.

A Request for Review must state with specificity, each issue that the employee wishes to have considered in the review, including for example,

the reason(s) for the termination, mitigating circumstances, and include any information that the employee believes would warrant modification of the decision being reviewed. If the employee has not provided this specific and definite information, then the Executive Director has the authority to require that the employee provide this information within a time frame established by the Executive Director, not to exceed five working days. **The Executive Director may dismiss the Request for Review if this information is not submitted in the time provided.**

- B. An employee who was rejected on initial probation may request a review of the rejection only on the grounds the rejection was illegal or unconstitutional.
- C. The Judiciary has the burden of proof in a termination of employment, or a rejection of an employee on probation as a result of a promotion, transfer, or reassignment. The employee has the burden of proof if the action was taken while the employee was on initial probation.
- D. For an employee of the Administrative Office of the Courts, a Circuit Court, a department or office within the Courts of Appeal, or a Court-Related Agency, if a Request for Review is filed in a timely manner with the Executive Director, it shall be forwarded to the State Court Administrator, along with a copy of the termination or rejection statement and other relevant information.
- E. For an employee of the District Court, if a Request for Review is filed in a timely manner with the Executive Director, it shall be forwarded to the Office of the Chief Judge of the District Court, along with a copy of the termination or rejection statement and any other relevant information.
- F. The State Court Administrator or the Chief Judge of the District Court, whomever is appropriate, prior to reaching a final decision, shall designate someone to conduct a hearing on the facts. The hearing shall be held within 30 working days from the receipt of the Request for Review. **The hearing shall be limited to examining the issues or matters raised by the employee in the Request for Review.**
- G. The employee may be represented at the hearing by a person of his or her choosing. Management also may be represented. Evidence may be presented and witnesses may testify on behalf of the employee and management at this hearing. The hearing officer is authorized to rule on all procedural matters raised prior to and during the hearing and on all matters affecting the conduct of the hearing. The standard of proof in the hearing is a preponderance of evidence.



- H. Hearings are confidential. As such, they shall be closed to the public unless the employee and management otherwise agree. Unless the confidentiality is waived by the above parties, attendance at the hearing is restricted to the following: the employee and his/her representative; one supervisor, manager, or Administrative Official and his or her representative; witnesses; and the hearing officer. The hearing officer, at his or her discretion, and on his or her own initiative or at the request of the employee or management, may sequester witnesses.
- I. The hearing officer shall render a written report and recommendation to the State Court Administrator or the Chief Judge of the District Court, whomever is appropriate, within 10 working days from the date of the hearing as to whether the termination/rejection should stand, be rescinded, or modified.
- J. The State Court Administrator or the Chief Judge of the District Court, whomever is appropriate, shall render a final decision within 20 working days from receipt of the hearing officer's recommendation as to whether the termination/rejection will stand, be rescinded, or modified, and shall forward a copy of the decision to the Executive Director to be distributed to the employee and the employee's Administrative Official.

The matter also may be remanded to the hearing officer for further proceedings if additional questions of fact or law need to be addressed. If the matter is remanded, a hearing shall be held within 30 working days of the decision. The time periods for rendering a decision by the hearing officer and the final decision-maker set forth in this policy shall apply.

- K. If termination or rejection does not occur, the employee may be returned to duty upon such terms and conditions as are set by the State Court Administrator or the Chief Judge of the District Court, whomever is appropriate.
  - L. The decision of the State Court Administrator or the Chief Judge of the District Court is final and not subject to further administrative review.
- X. ALTERATION OF DUTIES and/or COMPENSATION PENDING TERMINATION**
- A. The State Court Administrator or the Chief Judge of the District Court, whomever is appropriate, in consultation with the Executive Director, may take action which may include, but is not limited to, reassignment of duties or placing the employee on administrative leave or leave-without-pay pending completion of an investigation prior to termination of employment

or rejection on probation if he or she determines that a risk is posed to the public, the Judiciary, or its employees by the continuation of the employee in his or her regular duties.

- B. Actions taken under this section are not subject to appeal by the employee.

## **XI. INTERPRETIVE AUTHORITY**

The Judiciary Human Resources Department, in consultation with other parties as appropriate, is responsible for the interpretation of this Policy.